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HORIZON
BEVERAGE COMPANY
80 Stockwell Drive Avon, MA 02322

September 12, 2003

Chief Regulations & Procedures Division
Attn: Notice No. 4
Alcohol & Tobacco Tax & Trade Bureau
P.O. Box 50221
Washington, DC 20091

RE: Flavored Malt Beverages
To Whom It May Concern:

I am a third generation owner-operator of an alcoholic beverage distributor. We sell a variety of brand name spirits, wines and beers, including several brands of flavored malt beverages ("FMB"). Being a distributor of all three types of alcoholic beverage provides us with insight which can lend a fresh perspective to the issue of alcohol source in FMBs.

I urge you to adopt a majority standard requiring that at least 51% of the alcohol in an FMB be derived from malt (the "Majority Standard"). Up to 49% of the alcohol may be derived from the flavor agent. While the difference between this proposal and others may seem trivial, a standard which requires malt to account for a greater percentage of an FMB's alcohol would have devastating effects on the industry. Some of these proposals contemplate a malt-alcohol requirement as high as 90%.

Most Brewers Cannot Adapt

Most producers of FMBs would have a difficult time reformulating their products to comply with a 90% (or similar) standard. Reformulation takes time and money. The largest brewers have numerous bottling facilities and unlimited access to capital. For them reformulation is a mere inconvenience. For a smaller brewer it is an operational impossibility. They simply don't have the resources to redevelop their product and bring it to market in an economical fashion. It is interesting to note that the most successful FMBs are not currently produced by the largest brewers. I do not think it is a coincidence that these large brewers are eager to force their smaller, more successful competitors to shut down their bottling lines and reformulate their products. It would be an opportunity for the large brewers to tilt the playing field to their advantage by requiring everyone to redesign their products and incur additional production costs.

Similar to Other Federal Alcohol Standards

The Majority Standard is very similar to standards placed by the Federal Government on the production of other types of alcoholic beverages. Bourbon has traditionally been distilled from corn. This is one of the key elements which separates bourbon from other whiskeys. The Code of Federal Regulations only requires that corn account for at least 51% of the Premium Division Coastal Division

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alcohol in bourbon (27CFR5.22(b)(1)(i)) The other 49% may come from barley, wheat or other grain. Certain wines may also be labeled as a particular varietal of grape even if that varietal only accounts for 51% of the alcohol in the wine (27CFR4.23(c)(2)(i)). The Majority Standard in alcohol regulation is well-accepted in by the federal government, endorsed by state alcohol regulators, and appropriate in this situation as well.

Category Would Suffer

The entire FMB category would suffer from a strict standard of alcohol source. Existing brands which are enjoyed by consumers would either be redeveloped or reclassified as spirits. FMBs which are redeveloped would have a different taste and cost more due to the additional expense of reformulation. Both factors would cause consumers to look to a different brand or switch categories altogether. FMBs which are reclassified may retain their traditional taste, but the classification as a spirit would result in increased cost from heavier taxes. In many states it would also change the manner in which the product is sold. Malt products are often sold in a broader range of outlets than spirits. Grocery and convenience stores may be permitted to sell malt products but not spirits. Consumers will not be able to purchase non-reformulated FMBs where they have traditionally purchased them in the past. Our experience has shown that low-alcohol refreshers which are classified as spirits rather than malt do not succeed in the American market. Cost and availability are the two factors which cause these products to fail.

FMBs have a long history of providing high-quality, low-alcohol refreshment for people who do not enjoy the taste of traditional beer. Companies have invested heavily in creating exciting and interesting flavors which appeal to a great number of consumers. We certainly agree that standards must be set to identify a product as either an FMB or a spirit, but a strict standard requiring virtually all of the alcohol to come from malt would hurt those who have made the FMB what it is today. The small brewers whose entire business is based on FMB have been the most successful and would be forced to start from scratch should a strict standard be enacted. They would either reformulate their products or begin to sell their current products as spirits. In either scenario costs are going to rise. The only beneficiary from a strict standard are the large brewers who have been unable to produce an FMB to compete with the smaller brewers. It is shameful that these large corporations are attempting to use the federal government to reset the marketplace. The Majority standard is fair to all and it is in the best interest of the consumer.

Thank you for your consideration.

Respectfully,

Robert L. Epstein
President
Horizon Beverage Company